

AOV,MEDIATION,PART_CONS,REF_DISCOV

**U.S. District Court
Southern District of Florida (Ft Lauderdale)
CIVIL DOCKET FOR CASE #: 0:18-cv-60711-JAL**

Oppenheim v. Department of the Treasury
Assigned to: Judge Joan A. Lenard
Referred to: Magistrate Judge Alicia O. Valle
Cause: 05:0552 Freedom of Information Act

Date Filed: 04/04/2018
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: Federal Question

Plaintiff

Roy David Oppenheim

represented by **Geoffrey Elan Sherman**
Oppenheim Pilelsky, P.A.
2500 Weston Road
Suite 404
Weston, FL 33331
(954) 384-6114
Fax: (954) 384-6115
Email: geoffrey@oplaw.net
ATTORNEY TO BE NOTICED

Marisa D. Ajmo
McGlinchey Stafford
1 E. Broward Boulevard
Suite 1400
Ft. Lauderdale, FL 33301
954-356-2501
Fax: 954-337-0332
Email: majmo@mcglinchey.com
ATTORNEY TO BE NOTICED

Roy David Oppenheim
Oppenheim & Pilelsky, P.A.
2500 Weston Road
Suite 404
Weston, FL 33331-3618
954-384-6114
Fax: 954-384-6115
Email: roy@gate.net
ATTORNEY TO BE NOTICED

V.

Defendant

Department of the Treasury

represented by **Catriona M. Coppler**
Department of Justice, Tax Division
PO Box 227, Ben Franklin Station
Washington, DC 20044
202-514-5153
Email: Catriona.M.Coppler@usdoj.gov
ATTORNEY TO BE NOTICED

Joseph E. Hunsader
U.S. Department of Justice
Civil Trial Section, Eastern Region
PO Box 227
Washington, DC 20044
202-514-0472
Email: joseph.e.hunsader@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/04/2018	<u>1</u>	COMPLAINT for <i>Injunctive Relief</i> against Department of the Treasury. Filing fees \$ 400.00 receipt number 113C-10540013, filed by Roy David Oppenheim. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Summon(s))(Oppenheim, Roy) (Entered: 04/04/2018)
04/04/2018	2	Clerks Notice of Judge Assignment to Judge Joan A. Lenard. Pursuant to 28 USC 636(c), the parties are hereby notified that the U.S. Magistrate Judge Alicia O. Valle is available to handle any or all proceedings in this case. If agreed, parties should complete and file the Consent form found on our website. It is not necessary to file a document indicating lack of consent. Pro se (NON-PRISONER) litigants may receive Notices of Electronic Filings (NEFS) via email after filing a Consent by Pro Se Litigant (NON-PRISONER) to Receive Notices of Electronic Filing. The consent form is available under the forms section of our website. (ail) (Entered: 04/04/2018)
04/04/2018	<u>3</u>	Summons Issued as to Department of the Treasury. (ail) (Entered: 04/04/2018)
05/25/2018	<u>4</u>	SUMMONS (Affidavit) Returned Executed by Roy David Oppenheim. Department of the Treasury served on 4/6/2018, answer due 6/5/2018. (Oppenheim, Roy) (Entered: 05/25/2018)
06/06/2018	5	ORDER DIRECTING Plaintiff to file a Memorandum of Law establishing that David Mellinger, Assistant U.S. Attorney for the Department of the Treasury, Inspector General for Tax Administration, is authorized by law to accept service on behalf of Defendant. Plaintiff shall have until and including June 15, 2017 to file the Memorandum, which shall not exceed five double-spaced pages without leave of Court. This entry constitutes the ENDORSED ORDER in its entirety. Signed by Judge Joan A. Lenard on 6/6/2018. (gie) (Entered: 06/06/2018)
06/08/2018	<u>6</u>	NOTICE by Department of the Treasury of <i>Acceptance of Service Under Agreed June 29, 2018, Answer Date</i> . Attorney Catriona M. Coppler added to party Department of the Treasury(pty:dft). (Coppler, Catriona) (Entered: 06/08/2018)
06/15/2018	<u>7</u>	MEMORANDUM of Law <i>ESTABLISHING AUTHORIZATION OF ASSISTANT U.S. ATTORNEY FOR THE DEPARTMENT OF THE TREASURY, INSPECTOR GENERAL FOR TAX ADMINISTRATION TO ACCEPT SERVICE ON BEHALF OF DEFENDANT</i> by Roy David Oppenheim. (Oppenheim, Roy) (Entered: 06/15/2018)
06/28/2018	<u>8</u>	ANSWER and Affirmative Defenses to Complaint by Department of the Treasury. Attorney Joseph E. Hunsader added to party Department of the Treasury(pty:dft). (Hunsader, Joseph) (Entered: 06/28/2018)
07/05/2018	9	Order Referring Discovery Disputes and Certain Pretrial Motions to Magistrate Judge Alicia O Valle; Directing Parties to File Certificates of Interested Parties; Directing Parties to File a Notice of Refiling And/or of Related Cases; Requiring Completion of Form Consenting to Jurisdiction by Magistrate Judge; and Requiring Completion of Joint Scheduling Report and Form. Signed by Judge Joan A. Lenard on 7/5/2018. <i>See attached document for full details</i> . (Attachments: # <u>1</u> Appendix, # <u>2</u> Appendix) (dp) (Entered: 07/05/2018)
07/05/2018	<u>10</u>	Order Setting Forth the Court's Policy on Motions for Extension or Stay of the Scheduling Order Deadlines. Signed by Judge Joan A. Lenard on 07/05/18. <i>See attached document for full details</i> . (dp) (Entered: 07/05/2018)
07/05/2018	11	CASE REFERRED to Magistrate Judge Alicia O. Valle. SEE DE <u>9</u> ORDER (ail) (Entered: 07/06/2018)
07/19/2018	<u>12</u>	Plaintiff's MOTION to Strike <i>Defendant's Affirmative Defenses</i> by Roy David Oppenheim. Responses due by 8/2/2018 (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Oppenheim, Roy) (Entered: 07/19/2018)

07/19/2018	<u>13</u>	Notice of NO Pending, Refiled, Related or Similar Actions by Roy David Oppenheim (Oppenheim, Roy) (Entered: 07/19/2018)
07/19/2018	<u>14</u>	Certificate of Interested Parties/Corporate Disclosure Statement – NONE disclosed by Roy David Oppenheim (Oppenheim, Roy) (Entered: 07/19/2018)
07/19/2018	<u>15</u>	PAPERLESS ORDER REFERRING to Magistrate Judge Alicia O. Valle pursuant to 28 U.S.C. § 636(b)(1)(A) to hear and determine the <u>12</u> Motion to Strike Defendant, Treasury Inspector General For Tax Administration's Affirmative Defenses, and all related motions and pleadings. This entry constitutes the ENDORSED ORDER in its entirety. Signed by Judge Joan A. Lenard on 7/19/2018. (gie) (Entered: 07/19/2018)
07/20/2018	<u>16</u>	NOTICE by Department of the Treasury <i>re: No Related Cases, Certificate of Interested Parties and Corporate Disclosure Statement</i> (Hunsader, Joseph) (Entered: 07/20/2018)
07/30/2018	<u>17</u>	RESPONSE to Motion re <u>12</u> Plaintiff's MOTION to Strike <i>Defendant's Affirmative Defenses</i> filed by Department of the Treasury. Replies due by 8/6/2018. (Attachments: # <u>1</u> Text of Proposed Order)(Hunsader, Joseph) (Entered: 07/30/2018)
08/06/2018	<u>18</u>	NOTICE by Department of the Treasury re <u>2</u> Order Referring Case to Magistrate Judge,, <i>JOINT filing by Plaintiff and Defendant pursuant to July 5, 2018 Order of (1) Joint Scheduling Report; (2) Joint Scheduling Report Form; and (3) Consent re: Jurisdiction</i> (Attachments: # <u>1</u> Supplement, # <u>2</u> Supplement) (Hunsader, Joseph) (Entered: 08/06/2018)
08/07/2018	<u>19</u>	<p>PAPERLESS ORDER STRIKING <u>18</u> Joint Scheduling Report. On July 5, 2018, the Court issued an <u>2</u> Order directing the Parties to file a Joint Scheduling Report and warning the Parties that "unilateral reports will not be accepted." (D.E. <u>2</u> at 4.) The March 17, 2017 Order further states that "the Parties shall also file a completed copy of the attached form, titled 'Joint Scheduling Form.'" (<u>Id.</u> at 5.) It further instructs that "[a]ll deadlines provided in the form shall be <u>date specific</u>, e.g. January 1, 2006." (<u>Id.</u> (emphasis in original).) The attached Joint Scheduling Form similarly instructs the Parties to "jointly complete [the] Form by providing dates certain... for each action or event. Unilateral filings will not be accepted." (D.E. <u>9-2</u> at 1.) So it should have been clear that the Court wanted a Joint Scheduling Form with one, specific date for each event listed.</p> <p>On August 6, 2018, the Parties filed a Scheduling Report to which they attached a Scheduling Form that is "Joint" only in the sense that both Parties signed it, providing one agreed upon deadline (for amended pleadings and joinder of parties), two separate dates for dispositive motions/<u>Daubert</u> motions, and one non-agreed upon date for the remainder of the deadlines, with Defendant merely stating that it believes the deadlines should be deferred until after summary judgment. This document is unhelpful and is STRICKEN for failure to comply with the Court's July 5th Order. The Parties shall have until and including August 9, 2018, to file a Joint Scheduling Report and Joint Scheduling Form with <u>one date certain</u>, agreed upon by all parties, listed for each event. This entry constitutes the ENDORSED ORDER in its entirety. Signed by Judge Joan A. Lenard on 8/7/2018. (gie) (Entered: 08/07/2018)</p>
08/09/2018	<u>20</u>	NOTICE by Department of the Treasury <i>of JOINT filing by Plaintiff and Defendant of Joint Scheduling Form</i> (Attachments: # <u>1</u> Supplement Joint Scheduling Report Form) (Hunsader, Joseph) (Entered: 08/09/2018)
08/22/2018	<u>21</u>	<p>Order Adopting Joint Scheduling Report, Setting Pretrial Conference and Trial, Establishing Pretrial Deadlines, and Establishing Pretrial and Trial Procedures: Jury Trial set for 4/15/2019 09:00 AM in Miami Division before Judge Joan A. Lenard. Calendar Call set for 4/10/2019 04:00 PM in Miami Division before Judge Joan A. Lenard. Pretrial Conference set for 3/25/2019 02:00 PM in Miami Division before Judge Joan A. Lenard. Signed by Judge Joan A. Lenard on 08/22/18. <i>See attached document for full details.</i> (dp)</p> <p><u>Pattern Jury Instruction Builder</u> – To access the latest, up to date changes to the 11th Circuit Pattern Jury Instructions go to https://pji.ca11.uscourts.gov or click here. (Entered: 08/22/2018)</p>
08/22/2018	<u>22</u>	ORDER of Referral to Mediation and Directing Plaintiff's Counsel to Submit (Within Fourteen Days) Proposed Order Scheduling Mediation. Mediation Deadline 1/10/2019. Signed by Judge Joan A. Lenard on 08/22/18. <i>See attached document for full details.</i> (Attachments: # <u>1</u> Appendix) (dp) (Entered: 08/22/2018)

09/05/2018	<u>23</u>	NOTICE of Mediator Selection. Added Roy David Oppenheim, Meah Tell. (Oppenheim, Roy) (Entered: 09/05/2018)
09/05/2018	<u>24</u>	NOTICE of Mediator Selection. Added Roy David Oppenheim. (Attachments: # <u>1</u> Exhibit)(Oppenheim, Roy) (Entered: 09/05/2018)
09/06/2018	<u>25</u>	ORDER Scheduling Mediation before Meah Rothman Tell. Mediation Deadline 1/10/2019. Mediation Hearing set for 1/7/2019 09:30 AM. Signed by Judge Joan A. Lenard on 09/06/18. <i>See attached document for full details.</i> (dp) (Entered: 09/06/2018)
10/04/2018	<u>26</u>	NOTICE of Mediator Selection and Hearing. Added Meah Tell. Mediation Hearing set for 1/7/2019 at 9:30 a.m.. (Chaplin, James) (Entered: 10/04/2018)
10/22/2018	<u>27</u>	Defendant's MOTION for Judgment on the Pleadings (<i>motion for partial judgment on the pleadings under Rule 12(c) and/or motion for partial summary judgment under Rule 56</i> , MOTION for Summary Judgment (Responses due by 11/5/2018) by Department of the Treasury. (Attachments: # <u>1</u> Supplement Statement of Undisputed Facts in Support of Motion for Partial Summary Judgment, # <u>2</u> Text of Proposed Order)(Hunsader, Joseph) (Entered: 10/22/2018)
10/25/2018	<u>28</u>	ORDER granting in part and denying in part <u>12</u> Plaintiff's Motion to Strike Affirmative Defenses. Signed by Magistrate Judge Alicia O. Valle on 10/25/2018. <i>See attached document for full details.</i> (lmk) (Entered: 10/25/2018)
10/29/2018	<u>29</u>	MOTION for Leave to File <i>Memorandum in Support of Summary Judgment that Exceeds 20 Page Local Rule Limit</i> by Department of the Treasury. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Memorandum in support of summary judgment but is in excess of Local Rule's 20 page limit)(Hunsader, Joseph) (Entered: 10/29/2018)
10/29/2018	<u>30</u>	MOTION for Summary Judgment <i>on Plaintiff's Freedom of Information Act (FOIA) Complaint</i> by Department of the Treasury. Responses due by 11/13/2018 (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Supplement Defendant's Statement of Undisputed Facts in Support of Summary Judgment, # <u>3</u> Affidavit of James Jackson, # <u>4</u> Affidavit of Diane Bowers, # <u>5</u> Affidavit of Elissa Sissman)(Hunsader, Joseph) (Entered: 10/29/2018)
10/30/2018	31	PAPERLESS ORDER GRANTING <u>29</u> Defendant's Motion to Enlarge Page Limit for Memorandum in Support of Summary Judgment Under Fed. R. Civ. P. 56. Defendant's Memorandum shall not exceed twenty-five double-spaced pages, excluding signature block and certificate of service. This entry constitutes the ENDORSED ORDER in its entirety. Signed by Judge Joan A. Lenard on 10/30/2018. (gie) (Entered: 10/30/2018)
10/30/2018	<u>32</u>	NOTICE by Department of the Treasury re <u>30</u> MOTION for Summary Judgment <i>on Plaintiff's Freedom of Information Act (FOIA) Complaint</i> , 31 Order on Motion for Leave to File, <i>filing of Memorandum in Support of Summary Judgment in Compliance with Paperless Order (Dkt. No. 31) enlarging Local Rule's memorandum 20 page limit</i> (Hunsader, Joseph) (Entered: 10/30/2018)
11/05/2018	<u>33</u>	RESPONSE in Opposition re <u>27</u> Defendant's MOTION for Judgment on the Pleadings (<i>motion for partial judgment on the pleadings under Rule 12(c) and/or motion for partial summary judgment under Rule 56</i> MOTION for Summary Judgment filed by Roy David Oppenheim. Attorney Marisa D. Ajmo added to party Roy David Oppenheim(pty:pla). Replies due by 11/13/2018. (Ajmo, Marisa) (Entered: 11/05/2018)
11/05/2018	<u>34</u>	RESPONSE in Support re <u>27</u> Defendant's MOTION for Judgment on the Pleadings (<i>motion for partial judgment on the pleadings under Rule 12(c) and/or motion for partial summary judgment under Rule 56</i> MOTION for Summary Judgment filed by Roy David Oppenheim. (Ajmo, Marisa) (Entered: 11/05/2018)
11/13/2018	<u>35</u>	REPLY to Response to Motion re <u>27</u> Defendant's MOTION for Judgment on the Pleadings (<i>motion for partial judgment on the pleadings under Rule 12(c) and/or motion for partial summary judgment under Rule 56</i> MOTION for Summary Judgment filed by Department of the Treasury. (Hunsader, Joseph) (Entered: 11/13/2018)
11/13/2018	<u>36</u>	RESPONSE to Motion re <u>30</u> MOTION for Summary Judgment <i>on Plaintiff's Freedom of Information Act (FOIA) Complaint</i> filed by Roy David Oppenheim. Attorney Geoffrey Elan Sherman added to party Roy David Oppenheim(pty:pla). Replies due by 11/20/2018. (Attachments: # <u>1</u> Affidavit Plaintiff's Affidavit in Opposition to TIGTA's Motion for Summary Judgment [DE 30])(Sherman, Geoffrey) (Entered: 11/13/2018)

11/13/2018	<u>37</u>	RESPONSE to Motion re <u>30</u> MOTION for Summary Judgment <i>on Plaintiff's Freedom of Information Act (FOIA) Complainy</i> filed by Roy David Oppenheim. Replies due by 11/20/2018. (Sherman, Geoffrey) (Entered: 11/13/2018)
11/13/2018	<u>38</u>	NOTICE of Attorney Appearance by Geoffrey Elan Sherman on behalf of Roy David Oppenheim (Sherman, Geoffrey) (Entered: 11/13/2018)
11/20/2018	<u>39</u>	REPLY to Response to Motion re <u>30</u> MOTION for Summary Judgment <i>on Plaintiff's Freedom of Information Act (FOIA) Complainy</i> filed by Department of the Treasury. (Attachments: # <u>1</u> Supplement TIGTA's Reply to Plaintiff's Counter-Statement of Material Facts)(Hunsader, Joseph) (Entered: 11/20/2018)
12/03/2018	<u>40</u>	MOTION for Summary Judgment by Roy David Oppenheim. Responses due by 12/17/2018 (Attachments: # <u>1</u> Affidavit In Support Of Plaintiff's Motion For Summary Judgment, # <u>2</u> Supplement Statement Of Material Facts In Support Of Summary Judgment)(Ajmo, Marisa) (Entered: 12/03/2018)
12/11/2018	<u>41</u>	Unopposed MOTION for Extension of Time to File Response/Reply/Answer as to <u>40</u> MOTION for Summary Judgment by Department of the Treasury. (Attachments: # <u>1</u> Text of Proposed Order)(Hunsader, Joseph) (Entered: 12/11/2018)
12/11/2018	<u>42</u>	Joint MOTION for Extension of Time to Mediate (<i>postpone Mediation scheduled for January 7, 2019 until Court has ruled on Parties' motions for summary judgment</i>) by Department of the Treasury. (Attachments: # <u>1</u> Text of Proposed Order)(Hunsader, Joseph) (Entered: 12/11/2018)
12/11/2018	43	PAPERLESS ORDER GRANTING <u>41</u> Defendant's Unopposed Motion for Enlargement of Time to Respond to Plaintiff's Motion for Summary Judgment. Defendant shall have until and including January 18, 2019 to file its Response. This entry constitutes the ENDORSED ORDER in its entirety. Signed by Judge Joan A. Lenard on 12/11/2018. (gie) (Entered: 12/11/2018)
12/11/2018	44	PAPERLESS ORDER DENYING <u>42</u> Joint Motion to Postpone Mediation Scheduled for January 7, 2019. The Parties request that the Court permit them to postpone the scheduled mediation until after the Court rules on their cross-motions for summary judgment—one of which will not be ripe until after the scheduled mediation. They argue that "good cause" exists for the postponement because if the Court resolves this case on summary judgment, the Parties will be spared "the substantial expense of participating in the Mediation occurring during the time parties' summary judgment motions are still pending." The Court finds this does not constitute "good cause" for the requested postponement, and the motion is DENIED. The Parties are instructed to mediate as scheduled in a good faith attempt to resolve their issues without further Court intervention. This entry constitutes the ENDORSED ORDER in its entirety. Signed by Judge Joan A. Lenard on 12/11/2018. (gie) (Entered: 12/11/2018)